

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE MCKESSON GOVERNMENTAL
ENTITIES AVERAGE WHOLESALE
PRICE LITIGATION

No. C-09-80170 MISC MHP (JCS)

**NOTICE OF REFERENCE, TIME
AND PLACE OF HEARING; ORDER
TO MEET AND CONFER**

TO ALL PARTIES AND COUNSEL OF RECORD:

The above matter has been referred to Magistrate Judge Joseph C. Spero for all discovery matters.

The hearing on McKesson's Motion to Compel Additional Responses to Subpoena Duces Tecum Served on California Department of Healthcare Services (the "Motion") has been set for **October 16, 2009, at 9:30 a.m.**, in Courtroom A, 15th Floor, Federal Building, 450 Golden Gate Avenue, San Francisco, California. The opposition(s), if not already filed, shall be filed and served no later than twenty-one (21) days prior to the hearing. Any reply to the opposition(s) shall be filed and served no later than fourteen (14) days prior to the hearing. All documents shall be filed with the Clerk's Office in compliance with Civil L. R. 7-2 through 7-5. Documents not filed in compliance with those rules will not be considered by the Court. Any party seeking an award of attorney's fees or other expenses in connection with this motion shall file a motion in accordance with Civil L. R. 37-1(e).

IT IS HEREBY ORDERED that lead counsel for McKesson Corporation and lead counsel for California Department of Health Care Services shall meet and confer, **in person**, in Courtroom A on **September 24, 2009, at 9:00 a.m.**, regarding the subject matter of the Motion(s) in an effort to resolve the matter(s). Within five (5) calendar days of the lead trial counsels' meet-and-confer session, the parties shall provide a detailed Joint Letter to the Court. This Joint Letter shall include a

1 description of every issue in dispute and, with respect to each such issue, a detailed summary of each
2 party's final substantive position and its final proposed compromise on each issue.

3 **LAW AND MOTION HEARING PROCEDURES**

4 Civil law and motion is heard on Friday mornings, at 9:30 a.m., in Courtroom A, 15th Floor, United
5 States District Court, 450 Golden Gate Avenue, San Francisco, California 94102.

6 In the event a **future discovery dispute** arises, IT IS HEREBY ORDERED that before filing
7 any discovery motion before this Court, the parties must comply with the following:

- 8 1. Lead trial counsel for both parties must meet and confer *in person* regarding the
9 matter(s) at issue. This meeting shall occur after other efforts to resolve the dispute,
10 such as telephone, e-mail, teleconference, or correspondence, have been unsuccessful.
11 Once those efforts have proved unsuccessful, any party may demand a meeting of
12 lead trial counsel to resolve a discovery matter. Such a meeting shall occur within ten
13 (10) calendar days of the demand. The locations of the meetings shall alternate. The
14 first meeting shall be at a location selected by counsel for Plaintiff(s). If there are any
15 future disputes, the next such meeting shall be held at a location to be determined by
16 counsel for Defendant(s), etc.
- 17 2. Within five (5) calendar days of the in-person meeting between lead trial counsel
18 referred to above, the parties shall jointly file a detailed letter with the Court, which
19 will include the matters that remain in dispute, a detailed substantive description of
20 each side's position on each such issue, and a description of each side's proposed
21 compromise on each such issue.
- 22 3. After the Court has received the joint letter, the Court will determine what future
23 proceedings, if any, are necessary.

24 In the event that the parties continue to be unable to resolve the matters regarding the timing
25 and scope of discovery, the Court will consider what future actions are necessary. These actions
26 may include the following: (1) sanctions against a party failing to cooperate in the discovery process
27 and meet and confer in good faith, as required by this Order, the Federal Rules of Civil Procedure,
28 and the Local Rules of this Court; and/or (2) requiring the Chief Executive Officers of each party to

1 attend the in-person, meet-and-confer sessions described above. The Court is not entering either of
2 these matters as an Order of the Court at this time, and fully expects counsel to meet their
3 obligations under this Order and under the Local Rules.

4 A party or counsel has a continuing duty to supplement the initial disclosure when required
5 under Fed. R. Civ. P. 26(e)(1).

6 Law and motion matters may be submitted without argument upon stipulation of the parties
7 and notification of the Court no later than 4:30 p.m. the day before the hearing. Pursuant to Civil L.
8 R. 7-7(e), filed motions may be withdrawn without leave of the Court, within seven (7) days of the
9 date for service of the opposition. Thereafter, leave of the Court must be sought.

10 All filings of documents relating to motions referred to the undersigned shall list the civil
11 case number and the district court judge's initials followed by the designation "(JCS)".

12 **ELECTRONIC FILING AND COURTESY COPIES**

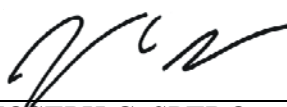
13 Please refer to Civil L. R. 5-4 and General Order No. 45 for the Northern District of
14 California for information relating to electronic filing procedures and requirements. All documents
15 shall be filed in compliance with the Civil Local Rules. Documents not filed in compliance with
16 those rules will not be considered by the Court.

17 BEFORE NOON ON THE NEXT BUSINESS DAY FOLLOWING THE ELECTRONIC
18 FILING, THE PARTIES ARE REQUIRED TO LODGE DIRECTLY WITH CHAMBERS ONE
19 CONFORMED, **PAPER** COPY OF EACH DOCUMENT, WHICH IS TO BE DESIGNATED
20 **"JCS'S CHAMBERS' COPY."**

21 The failure of counsel or a party to abide by this Order may result in sanctions pursuant to
22 Fed. R. Civ. P. 16(f).

23 IT IS SO ORDERED.

24
25 Dated: September 15, 2009

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28 **JOSEPH C. SPERO**
United States Magistrate Judge